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## Appeal Decision

Site visit made on 4 March 2024

**by T Burnham BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 April 2024**

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**Appeal Ref: APP/L5810/W/23/3332865**

**12 Rydal Gardens, Whitton, Richmond Upon Thames TW3 2JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Piara Sehajpal against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 22/1134/FUL dated 28 March 2022, was refused by notice dated 7 June 2023.
  - The development proposed is demolition of the existing side extension to No: 14 with additional development to the rear. No: 12 is to be partly demolished and reconfigured by development to form two semi detached properties. Two new semi detached houses on the site.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description in the banner heading above differs from that on the application form and decision notice. That included in the banner heading above is amended slightly from that on the application form to omit wording that is not a description of development.
3. The Council confirm within their statement that the refusal reason relating to flooding, drainage and construction has been addressed. I have no reason to take any other position and I will not discuss matters arising from that reason for refusal further.

### Main Issues

4. The first main issue is the effect of the proposal on biodiversity at the site. The second is the effect of the proposal on the character and appearance of the area. The third is the effect of the proposal on the living conditions of neighbouring residential occupiers at No. 10a Rydal Gardens (No. 10a) and No. 16 Rydal Gardens (No.16) with particular regard to any overlooking of private amenity spaces and at No. 10a with regard to any loss of light. The fourth main issue is whether there would be any unacceptable impact on highway and pedestrian safety with particular regard to the proposed new crossover.

### Reasons

*Biodiversity*

5. The appeal is accompanied by a Preliminary Ecological Appraisal<sup>1</sup>. Leaving aside the Oak trees, one of which appeared to have been removed from the site at the time of my visit which are indicated as having low suitability as bat roosts, greater levels of suitability were identified in relation to the dwellings on the site. These would be subject to some demolition and substantial reconfiguration.
6. The presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. Two bat emergence/re-entry surveys are recommended within the report. These surveys have not been undertaken. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
7. I therefore conclude on this matter that in the absence of the surveys, there cannot be any certainty as to whether the site and in particular the dwellings are being used by bats and to what extent.
8. Consequently, it is not possible to ensure that any required mitigation measures would specifically address any potential harm. It would not therefore be reasonable to condition further surveys in this instance.
9. Further, I note the results of the Biodiversity Impact Calculation<sup>2</sup>. This indicates that the proposal would result in the likely net loss of -1.93 habitat units at the site which would equate to a -37.04% loss. Whilst I accept the position of the appellant with regard to national requirements for biodiversity net gain, this, with no clear proposals before me as to how this would be mitigated would see substantial loss of biodiversity resource at the site, something which development plan policy seeks to avoid.
10. The proposal would therefore conflict with Policy LP 15 of the London Borough of Richmond upon Thames Local Plan (2018) (RTLTP) which amongst other things states that the Council will protect and enhance the borough's biodiversity.

### *Character and Appearance*

11. The area is residential in nature and falls within area 7 of the Whitton and Heathfield Character area which comprises a large area of predominantly 1930's housing of varying types and styles<sup>3</sup>. Properties on Rydal Gardens amongst others are noted for their additional, more intricate and complicated detailing.
12. The properties around this corner of Rydal Gardens are best enjoyed from public views from Rydal Gardens itself, as views from streets to the north-west are limited and it is likely that due to intervening distances and the set out of properties, views towards the rear of the site would be reasonably restrained.
13. Within this context the bulk and scale of the dwellings would sit comfortably within the street-scene given that these would be similar to the existing

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<sup>1</sup> Preliminary Ecological Appraisal – The Ecology Co-op - September 2023.

<sup>2</sup> Biodiversity Impact Calculation – The Ecology Co-op - November 2023.

<sup>3</sup> Whitton and Heathfield Village Planning Guidance – Supplementary Planning Document – July 2014.

residential properties. The siting, slightly set back from the street would not be an unreasonable approach given that No.12 is already set back slightly. Whilst the design of the dwellings would be less intricate and interesting than the majority of dwellings within the immediate area, the use of gable roofed bay windows would successfully tie the dwellings in with the appearance of those in the immediate area. Whilst blockier to the rear and whilst I acknowledge the larger style dormer windows, that design to the rear would not be unacceptable given the context to the rear.

14. There is a degree of tree removal proposed within the application and at the time of my site visit many, if not all of the trees suggested for removal were no longer present at the site. However, regardless of this, a substantial amount of trees would be retained which would broadly preserve the greener appearance of this corner of Rydal Gardens. Whilst I note the disagreement between the parties with regard in particular to the T5 oak, there is nothing compelling to suggest that the RPA nor the canopy could not be successfully accommodated at the site with the arrangement proposed. It should therefore be possible to retain this tree in line with the requirements of Policy LP 16 of the RTLP.
15. I therefore conclude that there would be no significant adverse impact on the character or appearance of the area as a result of the proposal. There would subsequently be no conflict with policies LP 1 and LP 39 of the RTLP which amongst other things require proposals to be compatible with the local area and respect the local context. There is nothing to indicate conflict with the SPD's that are brought to my attention.

#### *Living Conditions*

16. There will already be some overlooking of amenity spaces as a result of the pattern of two storey development and closely spaced dwellings, so for an occupier to be able to see into another's garden would not be unusual in a reasonably tightly knit suburban area.
17. Whilst I accept the inclusion of dormer windows proposed would increase the ability of neighbouring properties to be overlooked, the proposed arrangement would not be unacceptable within this particular context. The property that would become No. 12, adjacent to that existing at No. 10a would be placed in a broadly similar position to the existing dwelling on that site. Therefore, whilst I accept again that there would be a rather substantial dormer window to the rear, there is nothing to evidence any additional loss of light that No. 10a would suffer over and above the existing situation.
18. I therefore conclude that there would be no significant adverse impact on the living conditions of neighbouring residential occupiers at No. 10a and No. 16 with particular regard to any overlooking of private amenity spaces and at No. 10a with regard to any loss of light.
19. The proposal would not subsequently conflict with LP 8 of the RTLP which amongst other things requires that all development will be required to protect the amenity and living conditions for occupants of existing, adjoining and neighbouring properties.

### *Highway and Pedestrian Safety*

20. The appeal site is on the corner of a cul-de-sac and whilst it is indicated that there are a good number of dwellings on the street, the number of vehicles using the street and their speeds are likely to be low. Pedestrian movements are also likely to be limited. Generally, in such environments road users would generally have space and time to be courteous and look out for one another.
21. Although the parking space to the front of the dwellings would not be excessive in size, the proposed arrangement does not appear so restrained that it would not be possible for future users of the site to safely access the spaces. Further, given the particular highways context of this site there is nothing within the evidence to indicate why, regardless of the requirements of the SPD<sup>4</sup> that a crossover 300mm in excess of the required width would cause particular highways safety concerns. In the event that I was minded to allow the appeal it is the case that a condition could be added which would serve the purpose of maximising visibility splays for pedestrian sightlines as far as possible.
22. Therefore, whilst there may be some limited conflict with the SPD, the proposal would not compromise highway or pedestrian safety given the specific characteristics of this site. There would therefore be no conflict with policies LP 44 or LP 45 of the RTLP, which amongst other things require that the Council will ensure that new development does not have a severe impact on the operation, safety, or accessibility to the local highway network and which accept the provision of front garden parking where there would be no material impact on road or pedestrian safety.

### **Other Matters**

23. There is no mechanism in place such that the loss of biodiversity could be offset away from the site. It would not be reasonable to condition such a matter in part given the limited information on how this might work in practice. A pre-commencement condition could be used to require a construction management plan were it required and were I minded to allow the appeal.

### **Planning Balance and Conclusion**

24. There would be social and economic benefits to the scheme which would provide well sized housing that would be sustainably located and make a contribution towards housing supply. However, these matters would not outweigh the adverse impacts of the proposal with regard to biodiversity impacts.
25. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan. The appeal is therefore dismissed.

*T Burnham*

INSPECTOR

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<sup>4</sup> London Borough of Richmond upon Thames Transport SPD – Environment – June 2020.